

## May 2006 Litigation Report

To: Mayor McCoy & County Commissioners  
Suzanne Hutton, County Attorney  
Tom Willi, County Administrator

From: Bob Shillinger, Chief Assistant County Attorney

*BS*

Date: May 12, 2006

### Summary

#### Number of Cases

New cases filed since last month	4	Airports	2
Cases closed since last report	5	Constitutional Officers	6
CAY active cases	61	Engineering	7
CAY Post Judgment cases	4	Growth Management	55
Potential cases not yet filed	10	Miscellaneous	5
Outside Counsel Cases	28	Human Resources	2
		Public Works	4
Total Cases pending	72	Risk Management	6

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Potential Cases	17
Outside Counsel Cases	20
Ferencik, Libanoff (Ira Libanoff) (4 cases)	20
Johnson, Anselmo, (Bruce Johnson & Michael Burke) (14 cases)	21
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Vernis & Bowling (D.Smits, K.Willis & S.Black) (5 cases)	27

## CASES FILED SINCE LAST MONTH'S REPORT

**Aguiar, Alexander & Elizabeth Ginart v. Monroe County** **CA P 06-189**  
**Circuit Court 16<sup>th</sup>** **Judge: Garcia** **Date Filed: 5/5/06**  
Appeal from decision of Code Enforcement Special Magistrate  
**Growth Management/Code Enforcement** **PJM**

**Current Status:** Record to be compiled by Appellant.

**Next Activity:** Appellant's brief due 7/14/06.

**Time:** 0.5 **Costs:** 0.00

**Bond, James T. et al v. Monroe County** **CA K 06-394**  
**Circuit Court 16<sup>th</sup>** **Judge: Jones** **Date Filed: 4/21/06**  
Declaratory Judgment action seeking injunction against enforcement of flood  
plain regulations on downstairs enclosure that exceeded scope of permit.  
**Growth Management/Building Dept./Code Enforcement** **RBS**

**Current Status:** Mayor served 4/24/06; CAY notified 5/2/6.

**Next Activity:** County's response is due 5/15/06.

**Time:** 2.7 **Costs:** 0.00

**Graves, Frank III v. Monroe County** **CA P 06-154**  
**Circuit Court 16<sup>th</sup>** **Judge: Garcia** **Date Filed: 4/7/06**  
Code Enforcement appeal  
**Growth Management/Code Enforcement** **PJM**

**Current Status:** Record to be compiled by Appellant.

**Next Activity:** Appellant's brief due 6/16/06.

**Time:** 0.5 **Costs:** 0.00

**Oliveros, Joseph v. Ana M. Velazquez & Monroe County** **CA P 06-130**  
**Circuit Court 16<sup>th</sup>** **Judge: Garcia** **Date Filed: 3/20/06**  
Quiet title action to property conveyed via tax deed.  
**Constitutional Officer/Clerk/Tax Collector** **RBS**

**Current Status:** Mayor served 5/5/06.

**Next Activity:** County's responsive pleading due 5/25/06.

**Time:** 0.5 **Costs:** 0.00

**CASES CLOSED SINCE LAST MONTH'S REPORT**

**Gap Properties of SW Florida-I, Inc. v. Monroe County** **3D05-2413**

**Third DCA** **Judges: TBA** **Date Filed: 10/14/5**

Second tier certiorari appeal of denial of petition challenging County's plat approval rules for dockominiums, see CA K 04-1321 below.

**Growth Management/Planning** **RBS**

**Current Status:** Certiorari petition denied; disposed w/o mandate.

**Next Activity:** Closed.

**V & B fees billed to date:** see trial level CA K 04-1321.

**Kessler, Stuart v. Monroe County & Tom Willi** **3D05-2755**

**Third DCA** **Judges: TBA** **Date Filed: 11/28/05**

Appeal of non-final order denying Kessler's petition for temporary reinstatement.

**Human Resources/Risk Management** **RBS**

**Current Status:** Mandate issued 3/31/06.

**Next Activity:** Closed.

**J & A Billing to date:** see trial level case CA K 05-1006

**CAY Time:** 2.0 **Costs:** 0.00

**Monroe County v. Boy Scouts of America** **CA K 06-139**

**Circuit Court 16<sup>th</sup>** **Judge: TBA** **Date Filed: 2/10/6**

Code fine collection action authorized on 9/28/05. Fine fixed at \$408,000.00.

**Growth Management/Code Enforcement** **PJM**

**Current Status:** Settled; dismissed.

**Next Activity:** CLOSED.

**Time:** 2.0 hours **Costs:** \$276.00

**Monroe County v. Post Buckley, Schuh, and Jernigan** **3D05-1822**  
**Third DCA** **Judges: TBA** **Date Filed: 8/1/05.**  
Appeal of judgment in the above case.  
**Engineering** **RBS**

**Current Status:** Dismissed by stipulation 3/8/6.

**Next Activity:** Closed.

**Smith Firm Fees billed to date: see trial level case CA K 95-402.**

**O'Daniel & Hill v. Monroe County** **3D-05-583**  
**Third DCA** **Judges: TBA** **Date Filed: 3/18/05**  
Appeal of circuit court decision in CA P 02-141.  
**Growth Management/Code Enforcement/Planning** **JDS**

**Current Status:** Mandate issued 12/27/05.

**Next Activity:** Closed.

**M&H Billing to date:** *See trial level report.*

**CAY Time:** 1.5

**CAY LITIGATION – Trial & Appellate Level**  
**See Outside Counsel Section for Cases being Handled Jointly**

**Ambrose, Thora et al v. Monroe County et al** **CA P 97-636**  
**Circuit Court 16<sup>th</sup>** **Judge: Garcia** **Date Filed: 12/11/97**  
Declaratory Judgment action claiming vested rights due to subdivision plats.  
Subsequent appeal of summary judgment order reversed and remanded.  
**Growth Management/Planning** **JDS**

**Current Status:** Review of Court file indicates case still pending.

**Next Activity:** Schedule hearing on Motion to Dismiss.

**M&H Billing to date:** \$30,960.98.

**CAY Time:** 2.5

**In re: Birch Telecom, Inc.** **05-12237 PJW**  
**U.S.Bnkcty.Delaware** **Judge: Walsh** **Date Filed: 8/12/05**  
Bankruptcy action by pay phone vendor which claims it owes County \$4.15.  
**Administrative Services/Technical Services** **RBS**

**Current Status:** Claim deadline passed 11/4/05. County's interest \$4.15.

**Next Activity:** None.

**Time:** 1.0 **Costs:** 0.00

**Bott, Andrew & Donna v. City of Marathon** **CA M 05-267**  
**Circuit Court (16<sup>th</sup>)** **Judge: Payne** **Date Filed: 9/30/05**  
Declaratory Judgment action challenging validity of affordable housing deed restriction City of Marathon inherited from County at time of incorporation.  
**Growth Management/Planning** **RBS**

**Current Status:** Dismissed with prejudice by Court 4/25/06; County's intervention motion moot.

**Next Activity:** None unless dismissal is appealed.

**Time:** 13.4 **Costs:** 0.00

**In re: Meghan Cole** **05-43879 RAM**  
**Bankrtcy. S.D.Fla.** **Judge: Mark** **Date Filed: 10/17/05**  
Bankruptcy action by tenant of County property. County owed \$760.00 in rent.  
**Bankruptcy** **RBS**

**Current Status:** County's interest too minimal to take more than passive stance.

**Next Activity:** Final approval of plan or discharge.

**Time:** 1.0 **Costs:** 0.00

**Collins, C. & Sum Air Services v. Monroe County, et al** **CAM-05-146**  
**Circuit Court 16<sup>th</sup>** **Judge: Payne** **Date Filed: 6/1/05**  
Declaratory judgment action regarding lease with FBO at Marathon Airport.  
**Airports** **PJM**

**Current Status:** Companion case settled.

**Next Activity:** Dismissal after settlement finalized.

**Time:** 0.5 hours **Costs:** 0.00

**Cutaia, Thomas v. Monroe County, MCSO, Pretrial Services** **CAK-05-617**  
**Circuit Court 16<sup>th</sup>** **Judge: Jones** **Date Filed: 6/21/05**  
Complaint for unspecified damages. Mayor not served yet.  
**Constitutional Officer/MCSO** **RBS**

**Current Status:** Inactive.

**Next Activity:** None unless & until served.

**Time:** 0.6 hours **Costs:** 0.00

**Eads, Barbara v. Monroe County** **CAP-03-117**  
**Circuit Court 16<sup>th</sup>** **Judge: Garcia** **Date Filed: 2/27/03**  
Appeal of order finding the Lowe House to be in unsafe condition.  
**Growth Management/Code Enforcement** **RBS**

**Current Status:** Historic structure being renovated.

**Next Activity:** None at this time.

**Time:** 4.8 hours **Costs:** 0.00

**EEOC v. Monroe County** **150-2005-03773**  
**EEOC – Miami** **Judge: N/A** **Date Filed: 9/7/05**  
Charge of disability discrimination filed by an employee.  
**Public Works/Human Resources** **PJM**

**Current Status:** File closed without conciliation.

**Next Activity:** Await filing of suit by employee.

**Time:** 16.6 hours **Costs:** 0.00

**Fuchs, Walburga v. Monroe County** **CAK-01-1251**  
**Circuit Court 16<sup>th</sup>** **Judge: Payne** **Date Filed: 10/5/01**  
This is a code enforcement appeal of an OSTDS case.  
**Growth Management/Code Enforcement** **RBS**

**Current Status:** The County's brief filed; case reassigned to Judge Payne.

**Next Activity:** Await Court's decision.

**Time:** 11.5 hours **Costs:** 0.00

**Good, Lloyd v. Monroe County****CA K 01-977****Circuit Court 16<sup>th</sup>****Judge: Payne****Date Filed: 8/9/01**

Inverse condemnation action based on NROGO and declaratory judgment that owner be awarded permits for properties.

**Growth Management/Planning****RBS**

**Current Status:** Responses to Case Management Order filed.

**Next Activity:** Set hearing on County's Motion to Dismiss.

**M&H Billing to date:** \$18,526.41 as of 10/31/05.

**CAY Time:** 18.4

**Graves, Frank v. Monroe County****CA P 06-154****Circuit Court 16<sup>th</sup>****Judge: Garcia****Date Filed: 4/7/06**

Appeal of code enforcement decision.

**Growth Management/Code Enforcement**

**Current Status:** Record being compiled.

**Next Activity:** Briefing schedule to be determined.

**Time:** 0.5

**Costs:** 0.00

**Hardin, Michelle v. Monroe County****CA K 99-1046****Circuit Court 16<sup>th</sup>****Judge: Miller****Date Filed: 9/3/99**

Appeal of code enforcement decision.

**Growth Management/Code Enforcement****RBS**

**Current Status:** Status review on pending motions.

**Next Activity:** Hearing on Motion to Dismiss, tba.

**M&H Billing to date:** \$10,241.57 thru 8/31/05.

**CAY Time:** 6.5

**Johnson, Lloyd v. Marlene Conaway** **CA K 02-1248**  
**Circuit Court 16<sup>th</sup>** **Judge: Payne** **Date Filed: 10/30/02**

Writ of Mandamus challenging Planning Director's determination that boundary determination by alleged error requires zoning map amendment.

**Growth Management/Planning**

**JDS**

**Current Status:** Status report from Judge's chambers pending.

**Next Activity:** If needed, schedule hearing on Motion to Dismiss.

**M&H Billing to date:** \$2,219.62 through 8/31/05.

**CAY Time:** 3.4

**Kalan, Suzanne v. Monroe County** **CA P 03-155**  
**Circuit Court 16<sup>th</sup>** **Judge: Garcia** **Date Filed: 3/11/03**

Inverse condemnation action.

**Growth Management/Code Enforcement**

**RBS**

**Current Status:** Held in abeyance pending BUD hearing.

**Next Activity:** Finalize motion for substitution of counsel.

**M&H Billing to date:** \$2,855.77 as of 8/31/05.

**CAY Time:** 1.0

**McIntyre, Edward v. Richard Roth & Monroe County** **80-1721-CIV-WMH**  
**US Dist. SDFla.** **Judge: Hoeveler** **Date Filed: 7/8/80**

Civil Rights action filed in 1980 over old jail facilities. Settled 12/1991.

**Constitutional Officer/MCSO**

**Current Status:** Status report being finalized.

**Next Activity:** Status conference to be scheduled.

**CAY Time:** 13.0 **Costs:** \$86.77 (since March 2005)

**Monroe County v. Matthew Bonnett** **CAK-05-911**  
**Circuit Court 16<sup>th</sup>** **Judge: TBA** **Date Filed: 9/9/5**

Code enforcement lien collection action authorized 10/17/04, \$78,000.

**Growth Management/Code Enforcement**

**PJM**

**Current Status:** DF's answer overdue.

**Next Activity:** Move for default.

**Time:** 6.8 hours

**Costs:** \$295.00

**Monroe County v. Alain Y. Depierrefeu** **CAK-03-1504**  
**Circuit Court 16<sup>th</sup>** **Judge: Jones** **Date Filed: 12/18/03**  
Code enforcement foreclosure action authorized by the BOCC on 4/18/03.  
**Growth Management/Code Enforcement** **RBS**

**Current Status:** Negotiations ongoing.

**Next Activity:** If unsuccessful, move for auction date.

**V & B Fees billed to date:** None **Costs:** 0.00  
**CAY Time:** 6.6

**Monroe County v. Alain Y. Depierrefeu** **CAK-03-1507**  
**Circuit Court 16<sup>th</sup>** **Judge: Jones** **Date Filed: 12/18/03**  
Code enforcement foreclosure action authorized by the BOCC on 4/18/03.  
**Growth Management/Code Enforcement** **RBS**

**Current Status:** same as previous entry.

**Next Activity:** If negotiations unsuccessful, move to schedule auction.

**V&B Fees billed to date:** None **Costs:** 0.00  
**CAY Time:** 3.5 hours

**Monroe County v. Jack Hagopian** **CAP 03-529**  
**Circuit Court 16<sup>th</sup>** **Judge: Garcia** **Date Filed: 10/1/03**  
Code enforcement collection action authorized by BOCC on 8/20/03. Fine exceeds \$300,000.00 as of 1/1/6 and accruing at \$250.00 per day.  
**Growth Management/Code Enforcement** **RBS**

**Current Status:** Settlement agreement and check received.

**Next Activity:** Monitor status of compliance.

**Time:** 46.5 hours **Costs:** \$801.70

**Monroe County v. Dorothy Hough, et al** **CAP-05-160**  
**Circuit Court 16<sup>th</sup>** **Judge: Garcia** **Date Filed: 4/6/05**  
Action to collect unpaid code enforcement fine of \$61,850.00.  
**Growth Management/Code Enforcement** **RBS**

**Current Status:** Motion to compel discovery granted.

**Next Activity:** Defendants discovery overdue. Seek contempt order.

**Time:** 16.2 hours **Costs:** \$596.00

**Monroe County v. James Jeanquenat** **CAP-05 317**  
**Circuit Court 16<sup>th</sup>** **Judge: Garcia** **Date Filed: 7/18/05**  
Collection action authorized by BOCC on 4/21/04. Fine exceeds 136,100.00.  
**Growth Management/Code Enforcement** **RBS**

**Current Status:** Motion for Dismiss filed.

**Next Activity:** Motion hearing TBA.

**Time:** 3.7 hours **Costs:** \$275.00

**Monroe County v. Key Largo Ocean Resorts Coop, Inc.** **CAP-96-260**  
**Circuit Court 16<sup>th</sup>** **Judge: Garcia** **Date Filed: 5/20/96**  
Action to foreclose a code enforcement lien.  
**Growth Management/Code Enforcement** **RBS**

**Current Status:** Development agreement application being reviewed.

**Next Activity:** Status report due with the Court 7/1/06.

**Time:** 41.5 hours **Costs:** \$340.00

**Monroe County v. Pedro Liz** **CAK-05-420**  
**Circuit Court 16<sup>th</sup>** **Judge: Jones** **Date Filed: 4/22/05**  
Collection action authorized by BOCC on 7/17/03; fines exceed \$816,300.00.  
**Growth Management/Code Enforcement** **RBS**

**Current Status:** Guardian appointed. Motion for default cancelled.

**Next Activity:** Waiting on bond of Guardian to receive answer.

**Time:** 9.0 hours **Costs:** \$555.00

**Monroe County v. Mary Ellen Lloyd** **CAM-03-362**  
**Circuit Court 16<sup>th</sup>** **Judge: Jones** **Date Filed: 12/19/03**  
Code enforcement foreclosure action authorized by the BOCC 4/18/03.  
The total amount of the lien owed to the County is \$143,500.00.  
**Growth Management/Code Enforcement** **RBS**

**Current Status:** Clarifying double filing by prior counsel.

**Next Activity:** Draft settlement agreement with Defendant.

**V&B Fees billed to date:** None **Costs:** 0.00  
**CAY Time:** 2.3 hours

**Monroe County v. Arthur Mehr** **CAP-05-348**  
**Circuit Court 16<sup>th</sup>** **Judge: Garcia** **Date Filed: 8/5/05**  
Code fine collection action. Fine exceeds \$42,000.00.  
**Growth Management/Code Enforcement** **RBS**

**Current Status:** Discovery.

**Next Activity:** Discovery.

**Time:** 13.4 hours **Costs:** \$850.00.

**Monroe County v. James Messera, et al** **CAK-03-1509**  
**Circuit Court 16<sup>th</sup>** **Judge: Payne** **Date Filed: 12/18/03**  
Code enforcement foreclosure action authorized by the BOCC 4/18/03.  
**Growth Management/Code Enforcement** **RBS**

**Current Status:** Discovery.

**Next Activity:** Discovery.

**V & B Fees billed to date:** None **Costs:** 0.00  
**CAY Time:** 3.0

**Monroe County v. Outland Properties** **CAP-05-400**  
**Circuit Court 16<sup>th</sup>** **Judge: Garcia** **Date Filed: 9/9/5**  
Collection action authorized by BOCC on 10/17/04. Fine over \$225,000.00.  
**Growth Management/Code Enforcement** **PJM**

**Current Status:** Defendant served.

**Next Activity:** Discovery.

**Time:** 1.6 hours **Costs:** 300.00

**Monroe County v. Joe Posada, III** **CAK-03-1503**  
**Circuit Court 16<sup>th</sup>** **Judge: Payne** **Date Filed: 12/18/03**  
Code enforcement foreclosure action authorized by the BOCC 4/18/03.  
**Growth Management/Code Enforcement** **RBS**

**Current Status:** Settlement agreement to BOCC 5/17/06.

**Next Activity:** If not settled, bench trial 6/5/6 @ 8:45 a.m.

**V & B Fees & Costs billed to date:** None.  
**CAY Time:** 6.9 hours

**Monroe County v. Virginia Sawyer & Tony Walters** **CAK-03-1505**  
**Circuit Court 16<sup>th</sup>** **Judge: Payne** **Date Filed: 12/18/03**  
Code enforcement foreclosure action that was authorized by the BOCC 7/15/03.  
**Growth Management/Code Enforcement** **RBS**

**Current Status:** Settlement negotiations pending.

**Next Activity:** If unsuccessful, move for summary judgment.

**V & B Fees billed to date:** None **Costs:** 0.00  
**CAY Time:** 2.0

**Monroe County v. Virginia Sawyer** **CAK-03-1506**  
**Circuit Court 16<sup>th</sup>** **Judge: Jones** **Date Filed: 12/18/03**  
Code enforcement foreclosure action that was authorized by the BOCC 7/15/03.  
**Growth Management/Code Enforcement** **RBS**

**Current Status:** Court approved settlement agreement, injunction, lien.

**Next Activity:** Enforcement if not compliance.

**V&B Fees & Costs billed to date:** \$11,745.44  
**CAY Time:** 6.7 hours

**Monroe County v. Louis Walters** **CAK-04-639**  
**Circuit Court 16<sup>th</sup>** **Judge: Jones** **Date Filed: 6/14/04**  
Code enforcement foreclosure action that was authorized by the BOCC 7/15/03.  
**Growth Management/Code Enforcement** **RBS**

**Current Status:** Settlement negotiations pending.

**Next Activity:** If unsuccessful, move for summary judgment.

**V&B Fees billed to date:** None **Costs:** 0.00  
**CAY Time:** 2.5

**O'Daniel, John & Theresa Hill v. Monroe County** **CA P 02-141**  
**Circuit Court 16<sup>th</sup>** **Judge: Garcia** **Date Filed: 3/13/02**  
Appeal of code enforcement action and vested rights claim.  
**Growth Management/Code Enforcement/Planning** **JDS**

**Current Status:** Mandate from Third DCA received 1/13/06.

**Next Activity:** Status inquiry with chambers pending.

**M&H Billing to date:** \$42,782.73 as of 10/31/05  
**CAY Time:** 2.5

**Neumont, Elizabeth et al. v. Monroe County** **99-10054-CV**  
**U.S. Dist. Ct., S.D.Fla.** **Judge: Paine** **Date Filed: 5/21/99**  
Class action challenging enactment of vacation rental ordinance.  
**Growth Management/Planning** **RBS**

**Current Status:** Briefs completed.

**Next Activity:** None, await ruling.

**M&H Billing to date:** \$123,563.24.  
**CAY Time:** 0.5

**Neumont, Elizabeth et al. v. Monroe County** **04-13610-X**  
**11<sup>th</sup> Circuit Court of Appeals** **Judges: TBA** **Date Filed: 7/15/04**  
Appeal of 99-10054-CV above.  
**Growth Management/Planning** **RBS**

**Current Status:** Awaiting decision of the Court.

**Next Activity:** Finalize motion for substitution of counsel of CAY for former counsel.

**Billing to date:** \$123,565.49 as of 8/31/05 (by former outside counsel).  
**CAY Time:** 0.5

**Nunziante, Marilyn v. Monroe County** **CAK-04-1227**  
**Circuit Court 16<sup>th</sup>** **Judge: Jones** **Date Filed: 11/18/04**  
Suit challenging Bayshore's rule requiring family members to subsidize residents.  
**Community Services/Social Services** **RBS**

**Current Status:** PL has passed away. Settlement offer pending.

**Next Activity:** County's motion to dismiss to be heard 5/16/06 at 11:15 a.m.

**Time:** 80.7 hours **Costs:** 0.00

**Sierra Club, et al v. DCA, Miami Dade & City of Homestead** **03-150-GM**  
**DOAH** **Judge: Maloney** **Date Filed: 1/17/03**  
County intervened in administrative challenge to amendment of Miami-Dade's  
comp. plan redesignating Krome Avenue to a major roadway (3 or more lanes).  
**Growth Management/Planning** **JDS**

**Current Status:** Proposed Recommended Order filed 2/3/6.

**Next Activity:** Await ruling by ALJ.

**Billing to date:** None, *pro bono*. (by former outside counsel).  
**CAY Time:** 6.0

**Teal, Kimberly & Keith v. Michael Angel, Monroe County, et al** **CAM-04-404**  
**Circuit Court 16<sup>th</sup>** **Judge: Payne** **Date Filed: 12/16/04**  
Declaratory judgment action over road in City of Marathon.  
**Public Works/Roads and Bridges** **PJM**

**Current Status:** PL's motion to amend complaint & add party filed 5/9/6.

**Next Activity:** Hearing on motion to amend tba.

**Time:** 9.5 hours **Costs:** \$133.00

**Troy, Daniel Scott v. Monroe County** **CAK 05-856**  
**Circuit Court 16<sup>th</sup>** **Judge: Jones** **Date Filed: 8/24/05**  
Mandamus action seeking after the fact building permits.  
**Growth Management/Planning** **RBS**

**Current Status:** On appeal in 3D 05-2419.

**Next Activity:** None while on appeal.

**Time:** 2.0 hours **Costs:** 0.00

**Troy, Daniel Scott v. Monroe County** **3D 05-2419**  
**Third DCA** **Judges: TBA** **Date Filed: 10/7/05**  
Appeal of denial of writ of mandamus in CA K 05-856.  
**Growth Management/Planning** **RBS**

**Current Status:** Troy given until 3/23/06 to file his brief.

**Next Activity:** Troy's brief overdue. Draft reply brief whenever it arrives.

**Time:** .7 **Costs:** 0.00

**Walgreens & Gadinsky v. Monroe County**

**CAK-05-266**

**Circuit Court 16<sup>th</sup>**

**Judge: Taylor**

**Date Filed: 3/11/05**

Cert. review of DOAH order upholding 1/6 findings supporting denial of major conditional use application for Big Pine Walgreens.

**Growth Management/Planning**

**RBS**

**Current Status:** Settlement discussions ongoing.

**Next Activity:** Present settlement agreement to BOCC & Court for OK or go to final hearing.

**Time:** 40.2 hours

**Costs:** \$318.57

**In re: Winn Dixie Stores, Inc.**

**05-03817-3F1**

**U.S. Bankruptcy Ct., M.D.Fla. Judge: Jerry Funk**

**Date Filed: 2/25/05**

Voluntary Ch11 case where County *might* have a claim against the estate.

**Bankruptcy**

**RBS**

**Current Status:** Could find no basis for filing proof of claim.

**Next Activity:** None needed.

**Time:** 0.9 hours

**Costs:** 0.00

## CAY POST JUDGMENT CASES

**Evans, Brian v. Monroe County, et al** **04-CIV-10033-JLK**  
**U.S. Dist., S.D. Fla. (Miami) Judge: King** **Date Filed: 5/6/04**  
Money Judgment of \$4,579.00 in favor of County & MCSO for rule 11 sanctions.  
**Constitutional Officer/MCSO** **RBS**

**Current Status:** \$4,579.00 in fees awarded to County & MCSO.

**Next Activity:** Collection.

**CAY Time:** 9.5 hours

**Costs:** 0.00

**Monroe County v. William L. Davis** **CAP-04-181**  
**Circuit Court 16<sup>th</sup> Judge: Garcia** **Date Filed: 4/15/04**  
Money judgment of \$27,600.00 for unpaid code enforcement fines and costs.  
**Growth Management/Code Enforcement** **RBS**

**Current Status:** Final judgment of \$28,431.00 recorded w/ Dept. of State.

**Next Activity:** Collection.

**Time:** 6.2 hours

**Costs:** \$56.00

**Monroe County v. Dan Gleason** **SCP-03-165**  
**County Court (Sm. Claims) Judge: Ptomey** **Date Filed: 8/5/03**  
Money judgment of \$520.00 for unpaid code enforcement fines and costs.  
**Growth Management/Code Enforcement** **RBS**

**Current Status:** Final judgment recorded w/ Dept. of State.

**Next Activity:** Collection.

**Time:** 9.5 hours

**Costs:** \$65.92

**Monroe County v. Lily Marks** **CAK-03-1152**  
**Circuit Court 16<sup>th</sup> Judge: Jones** **Date Filed: 10/2/03**  
Money judgment of \$795,270.00 for unpaid code enforcement fines and costs.  
**Growth Management/Code Enforcement** **RBS**

**Current Status:** Final judgment entered for \$795,270.00 on 5/9/05.

**Next Activity:** Collection.

**Time:** 8.5 hours

**Costs:** \$55.00

## POTENTIAL CASES THAT HAVE NOT YET BEEN FILED AGAINST COUNTY

### Assoc. for Disabled Americans & Wisniewski v. Shipsway, Inc. 06CV10034

U.S.D.C.S.D.Fla.

Judge: King

Date Filed: 4/7/6

ADA suit against owner and some tenants at Shipsway office building. County is a tenant but has not been named to date.

**Public Works/Facilities**

**RBS**

**Current Status:** Monitoring suit since County not a party.

**Next Activity:** Preliminary Injunction hearing 5/24/06 at 4pm.

**Time:** 2.4

**Costs:** 0.00

### Ballard, Kandi v. Bergen Trust and Monroe County

**TBA**

**TBA**

**Judge:** TBA

**Date Filed:** TBA

Personal injury case allegedly arising from County hurricane debris activity on property owned by Bergen Trust.

**Risk Management/Engineering**

**Current Status:** Bergen Trust received letter notifying of claim. Reviewing claim, County's obligations and liabilities under debris site contract.

**Next Activity:** None until/unless suit is filed.

**Time:** 7.1

**Costs:** \$0.00

### Calusa Campground Condo v. Monroe County, et al.,

**TBA**

**Circuit Court (16<sup>th</sup>)**

**Judge:**

**Date Filed:**

Threatened action by condominium resulting from statements regarding platting requirements by Growth Management personnel.

**Growth Management/Planning**

**JDS**

**Current Status:** Investigating claim and assisting Growth Management Division in preparation of responses to claimant.

**Next Activity:** Awaiting claimant's filing proper subdivision plat for approval.

**Time:** 2.5

**Costs:** 0.00

**Good, Lloyd v. Monroe County** **TBA**  
**Circuit Court (16<sup>th</sup>)** **Judge:** **Date Filed:**  
Bert J. Harris Act claim regarding two parcels of property owned by Lloyd Good.  
**Growth Management/Planning** **RBS**

**Current Status:** Settlement discussions underway.

**Next Activity:** None. Stayed during Good's application for major conditional use.

**Time:** 8.6 hours **Costs:** \$5.56

**Hamelton, Charles v. KWRU & Monroe County** **CA K 04-740**  
**Circuit Court (16<sup>th</sup>)** **Judge: Miller** **Date Filed: 7/6/04**  
Potential personal injury claim by scooter accident victim and/or utility seeking damages from the County. Handled jointly with Johnson, Anselmo.  
**Public Works/Roads and Bridges/Risk Management** **RBS**

**Current Status:** County depositions concluded; County not a party yet.

**Next Activity:** None scheduled.

**Fees Billed to Date:** 0.00 **Costs:** 0.00  
**CAY Time:** 14.1

**Kresser, Mark v. Irvin Higgs, D. Kolhage and/or V.A.B.** **TBA**  
**Circuit Court (16<sup>th</sup>) or US Dist. Court** **Date Filed: TBA**  
Potential action for extraordinary writ challenging denial of homestead exemption or § 1983 claim for damages due to alleged lack of hearing notice for final hearing of VAB.  
**Constitutional Officer** **RBS**

**Current Status:** VAB held supplemental hearing 4/5/6.

**Next Activity:** Close file if no action filed by 6/5/6.

**CAY Time:** 11.5 **Costs:** 0.00

**Lee, Vera Estate of** **CP K 02-112**  
**Circuit Court 16<sup>th</sup>** **Judge: Taylor** **Date filed: 5/14/02**  
County has claim in probate case for an elderly home loan & unpaid taxes.  
**Housing Authority & Constitutional Officer**

**Current Status:** File administratively closed by the Judge; discussions with heirs on settlement ongoing

**Next Activity:** Re-open estate, sell property to clear all liens.

**Time:** 2.3

**Costs:**

**Monroe County v. Estate of Thomas O'Brien** **TBA**  
**Small Claims Monroe** **Judge: TBA** **Date Filed:**  
Action against estate to collect unpaid ambulance bill of \$861.81. Probate case is CP K 05-164.  
**Emergency Services/EMS** **RBS**

**Current Status:** Settlement agreement approved by the probate court.

**Next Activity:** Awaiting payment.

**Time:** 3.2

**Costs:** 0.00

**State of Florida v. Monroe County** **TBA**  
**TBA** **Judge: TBA** **Date Filed: n/a**  
AG's Medicaid Fraud unit alleges over billings for ambulance services.  
**Public Safety/Fire Rescue** **RBS**

**Current Status:** Waiting for AG's office to set up conference.

**Next Activity:** Settlement conference with State.

**Time:** 9.2 hours

**Costs:** 0.00

**Stewart, Becky v. Monroe County** **TBA**  
**TBA** **Judge: TBA** **Date Filed: TBA**  
Property damage claim (\$3,287.13) arising from accident involving County vehicle in Ocala. County's claim against Stewart is \$2,487.70.  
**Risk Management**

**Current Status:** Negotiations stalled due to offsetting claims.

**Next Activity:** Defend suit if filed; file suit if appropriate.

**Time:** 1.4

**Costs:** \$0.00

## **CASES BEING LITIGATED BY OUTSIDE COUNSEL**

**Ferencik, Libanoff, Brandt, Bustamante and Williams, P.A.**

**Monroe County v. Bender & Associates, et al** **CAK-03-915**  
**Circuit Court 16<sup>th</sup>** **Judge: Jones** **Date Filed: 8/4/03**  
Breach of contract and negligent misrepresentation action arising from the  
defective windows in the Gato building.  
**Engineering/Construction Management** **RBS**

**Current Status:** Discovery ongoing.

**Next Activity:** Discovery ongoing.

**Fees billed to date:** \$99,116.00 **Costs:** \$12,717.63 (thru 3/10/06)

**Monroe County v. Jose Gonzalez** **CA K TBA**  
**Circuit Court 16<sup>th</sup>** **Judge: TBA** **Date Filed: TBA**  
Possible breach of contract action against County's former architect.  
**Engineering/Construction Management** **RBS**

**Current Status:** Discussions with Gonzalez

**Next Activity:** Schedule meeting with staff & Gonzalez.

**Fees billed to Date:** \$10,245.00 **Costs:** \$872.21 (thru 3/10/06)  
**CAY Time:** 12.5

**Monroe County v. Lodge Construction, et al** **CAK-00-617**  
**Circuit Court 16<sup>th</sup>** **Judge: Payne** **Date Filed: 5/11/00**  
Suit filed against general contractor Lodge Construction & its surety for breach of  
contract to build Gato Building.  
**Engineering/Construction Management** **RBS**

**Current Status:** Motion to set before Senior Judge pending.

**Next Activity:** Ruling on Senior Judge motion pending & trial date to be set.

**Fees billed to date:** \$298,415.26 **Costs:** \$71,523.31 (thru 3/10/06).

**Tropex Construction Service, Inc. v. Monroe County** **CA P 06-44**  
**Circuit Court 16<sup>th</sup>** **Judge: Garcia** **Date Filed: 1/30/06**  
Breach of contract suit filed by contractor who terminated contract to build  
Tavernier Fire Station before commencement of construction.  
**Engineering/Construction Management** **RBS**

**Current Status:** PL amended complaint after dismissal by court.

**Next Activity:** County's response due 5/24/6.

**Billing Received to date:** none.  
**CAY Time:** 1.1 **Costs:** 0.00

**Johnson, Anselmo, Murdoch, Burke, Piper, & McDuff, P.A.**

**Bauknight, Skaggs & Rockett v. Monroe County** **CAP-04-451**  
**Circuit Court 16<sup>th</sup>** **Judge: Garcia** **Date Filed: 9/24/04**  
Inverse condemnation/takings case filed by Jimmy & Nancy Bauknight, Teague  
Skaggs, & Kathleen Rockett for three lots on Big Pine Key. Mayor served 10/4/4.  
**Growth Management/Planning** **RBS**

**Current Status:** Third party complaint against State filed 1/11/06.

**Next Activity:** Discovery.

**Fees billed to date:** \$832.24 **Costs:** 0.00

**Bauknight, Skaggs & Rockett v. Monroe County** **04-CV-10105**  
**U.S. D.C. S.Fla.** **Judge: Moore** **Date Filed: 11/1/04**  
Inverse condemnation/takings case by owners of 3 Big Pine lots.  
**Growth Management/Planning** **RBS**

**Current Status:** None.

**Next Activity:** None.

**Fees billed to date:** None **Costs:** 0.00

**Bauknight, et al. v. Monroe County** **05-10868-F**  
**11<sup>th</sup> Cir. Ct. of Appeals** **Judge: TBA** **Date Filed: 2/11/05**  
Property owners' appeal of denial of attorney's fees against the County  
**Growth Management/Planning** **RBS**

**Current Status:** 4/25/6 11<sup>th</sup> Circuit affirmed decision denying owners' fees.  
County awarded appellate costs.

**Next Activity:** None; await 90 day period for expiration of time to petition  
U.S. Supreme Court for certiorari review.

**Fees billed to date:** None. **Costs:** 0.00

**Florida Key Deer v. Michael Brown & Gale Norton** **90-10037-CIV-Moore**  
**U.S. Dist. Ct., SD Fla.** **Judge: Moore** **Date Filed: 4/2/90**  
ESA case that resulted in permanent injunction barring FEMA flood insurance.  
**Growth Management/Planning** **RBS**

**Current Status:** Injunction in place.

**Next Activity:** On appeal, see 05-16374-II

**Billing to Date:** none **Costs:** 0.00  
**CAY Time:** 33.8

**Paulson, R.D. v. Florida Key Deer, et al** **05-16374-II**  
**11<sup>th</sup> Circuit** **Judges: TBA** **Date Filed: 11/10/05**  
Appeal of Southern District's injunction in 90-10037-CIV. County appeared as  
*amicus curiae* because denied intervention. See Case No.: 05-16990-II.  
**Growth Management/Planning** **RBS**

**Current Status:** Briefs complete.

**Next Activity:** Awaiting decision by Court.

**Billing to date:** none  
**CAY Time:** 0.5 **Costs:** 0.00

**Monroe County v. Florida Key Deer, et al** **05-16990-II**  
**11<sup>th</sup> Circuit** **Judges: TBA** **Date Filed: 12/12/05**  
Appeal of denial of County's motion to intervene in 90-10037-CIV.  
**Growth Management/Planning** **RBS**

**Current Status:** Key Deer's Answer Brief filed 5/9/6.

**Next Activity:** County's reply brief due 5/20/6.

**Billing to Date:** None  
**CAY Time:** 1.0

**Florida Key Deer, et al v. Gale Norton (Sec. of Interior)** **05-10063-CIV-KING**  
**U.S.D.C. S.D.Fla.** **Judge: King** **Date Filed: 6/15/05**  
ESA challenge to F&WS review of construction of park on Big Pine Key.  
**Engineering/Construction Management** **RBS**

**Current Status:** Dismissed with prejudice by agreement on 2/13/06 because revised biological opinion satisfactory to Plaintiffs.

**Next Activity:** Resolve any attorneys fees & costs motions.

**Fees billed to date:** \$612.50 **Costs:** 0.00  
**CAY Time:** 6.5

**Hyland, Thomas G. v. D. Kolhage & R. Thurston** **04-10102-CIV**  
**U.S.D.C.SD.Fla.** **Judge: Highsmith** **Date Filed: 10/21/04**  
Civil Rights action against Deputy Clerk of Court by inmate.  
**Constitutional Officer/Clerk** **RBS**

**Current Status:** Discovery.

**Next Activity:** Answers to Interrogatories due 5/18/06.

**CAY Time:** 8.6  
**Fees & Costs billed to date:** \$5,207.12

**FKCC & Last Stand v. FL Admin. Comm., Monroe County** **DOAH 04-2756**

**DOAH** **Judge: Carolyn Holifield** **Date Filed: 08/05/04**

Administrative Rule challenge to partnership agreement with State.

**Growth Management/Planning**

**RBS**

**Current Status:** Final Order in County's favor issued 6/29/05.

**Next Activity:** None pending appeal.

**Fees billed to date:** \$59,464.92

**Costs:** 0.00

**CAY Time:** 190.1 hours

**FKCC & Last Stand v. FL Admin. Comm., Monroe County, et al** **3D05-1800**

**Third DCA** **Judges: TBA** **Date Filed: 7/28/05**

Appeal of ALJ's decision denying rule challenge in DOAH 04-2756.

**Growth Management/Planning**

**RBS**

**Current Status:** Marathon dismissed because adoption and approval of its comprehensive plan mooted its involvement in the rule challenge.

**Next Activity:** County & DCA's brief due 5/15/06.

**Fees billed to date:** none

**CAY Time:** 0.5 hours

**Costs:** 0.00

**Hardee, Evelyn v. Monroe County**

**CAP-05-255**

**Circuit Court 16<sup>th</sup>** **Judge: Garcia**

**Date Filed: 6/3/05**

Tort action arising from alleged fall at PK Court house.

**Risk Management/Public Works**

**RBS**

**Current Status:** Settled for \$25,000.00. Releases being exchanged.

**Next Activity:** Once finalized, close file.

**Fees billed to date:** \$5694.33 (thru 1/31/06).

**CAY Time:** 10.3 hours

**Kessler, Stuart v. Monroe County & Tom Willi** **CA K 05-1006**

**Circuit Court 16<sup>th</sup>** **Judge: Jones** **Date Filed: 10/11/2005**

Whistle-Blower & Civil Rights claim by former employee.

**Personnel/Risk Management** **RBS**

**Current Status:** 4/11/6 Court dismissed 2 of 4 counts, reserved ruling on 1 count and denied motion to dismiss whistleblower count.

**Next Activity:** Kessler's deposition scheduled for 7/11/06.

**Fees & Costs billed to date:** \$11,554.97 (thru 1/31/6)

**CAY Time:** 28.6

**Neuman, Kenneth v. Monroe County** **CAK-04-663**

**Circuit Court 16<sup>th</sup>** **Judge: Jones** **Date Filed: 6/21/04**

Action for damages and to compel County to issue building permits.

**Growth Management/Planning** **RBS**

**Current Status:** Discovery.

**Next Activity:** Discovery.

**Fees billed to date:** \$2,326.92 **Costs:** 0.00

**CAY Time:** 5.8 hours

**Riverview Consultants, Inc. v. Monroe County** **CAK-05-373**

**Circuit Court 16<sup>th</sup>** **Judge: Jones** **Date Filed: 4/13/05**

Case alleging tortious interference with contract by airport DBE subcontractor.

**Risk Management/Airports/MCSO** **PJM**

**Current Status:** Discovery. June Trial continued.

**Next Activity:** Discovery ongoing.

**Fees billed to date:** \$743.86 **Costs:** 0.00

**CAY Time:** 4.5 hours

**Paul, Hastings (Bob Freilich & Derek Howard)**

**Collins, Thomas, et al v. Monroe County** **CAM-04-379**

**Circuit Court 16<sup>th</sup>** **Judge: Payne** **Date Filed: 11/22/04**

Takings action brought by 11 groups of plaintiffs.

**Growth Management/Planning** **RBS**

**Current Status:** Discovery.

**Next Activity:** Case management conference to be reset.

**Total Fees billed to date:** \$898,362.59 (thru 5/8/06)

**CAY Time:** 158.8 hours **Costs:** \$90,302.13

**Emmert, Helen & Greg v. Monroe County** **CA P 02-520**

**Circuit Court 16<sup>th</sup>** **Judge: Garcia** **Date Filed: 10/2/02**

Inverse condemnation and vested rights action.

**Growth Management/Planning** **RBS/JDS**

**Current Status:** 4/11/6, Court dismissed Counts 1 & 2 (Ct. 3 still pending).

**Next Activity:** Court reviewing motion for reconsideration of dismissal.

**P, H Billing to date:** None

**M&H Billing to date:** \$94,550.56 as of 10/31/05

**CAY Time:** 15.5

**Galleon Bay v. Monroe County v. State of Florida** **CA K 02-595**

**Circuit Court 16<sup>th</sup>** **Judge: Payne** **Date Filed: 5/21/02**

Inverse condemnation and vested rights action.

**Growth Management/Planning** **RBS**

**Current Status:** Trial preparation.

**Next Activity:** PTC 5/22/06; Trial 5/31/6 & 6/5/6.

**M & H Billing to date:** \$54,322.5 thru 1/25/06.

**Paul, Hastings Billing:** \$245,016.00 **Costs:** \$3,742.59

**CAY TIME:** 56.5

**State of Florida & Monroe County v. Galleon Bay Corp.** **3D06-927**

**Third DCA** **Judges: TBA** **Date Filed: 4/20/06**

Petition seeking Writ of Prohibition enjoining Circuit Court in CA K 02-595 from exercising authority in excess of its jurisdiction.

**Growth Management/Planning** **RBS**

**Current Status:** Court has made preliminary review and invited response prior to determining whether it will issue an order to show cause.

**Next Activity:** Galleon Bay's Response due 5/15/06.

**Billing to date:** none.

**CAY Time:** 0.5

**The Smith Law Firm**

**Monroe County v. Post Buckley, Schuh, and Jernigan** **CAK-95-402**

**Circuit Court 16<sup>th</sup>** **Judge: Payne** **Date Filed: 3/30/95**

Malpractice claim against the County's former engineering firm for miscalculation of bonds necessary to finance improvements to Card Sound Road.

**Engineering** **RBS**

**Current Status:** Settled remaining issue.

**Next Activity:** Close file once dismissed by Court.

**Fees & Costs billed to date:** \$645,991.54  
(doesn't include PBSJ fees paid of \$282,745.01)

**Vernis & Bowling of the Florida Keys, P.A.**

**GAP Properties of SW Florida-I, Inc. v. Monroe County** **CAK-04-1321**

**Circuit Court 16<sup>th</sup>** **Judge: Jones** **Date Filed: 12/10/04**

Cert. review of action involving failure to obtain plat approval of dock subdivision and an improper change of use without a major or minor conditional use permit.

**Growth Management/Planning** **RBS**

**Current Status:** None pending appeal. See below.

**Next Activity:** Present settlement proposal to BOCC on 3/15/06.

**Fees billed to date:** \$26,875.00 **Costs:** \$306.43

**Key Tex S. D. Condo Assoc. v. Monroe County & T. McGarry      CAP-04-224**

**Circuit Court 16<sup>th</sup>**      **Judge: Jones**      **Date Filed: 3/2/04**

Action to prevent County from denying permits because of ownership conversion to condominiums and compel County to accept permit applications.

**Growth Management/Planning**

**RBS**

**Current Status:**      Motion to dismiss pending; settlement discussions ongoing.

**Next Activity:**      Await ruling of the court.

**Fees billed to date:** \$32,290.50

**Costs:** \$2,540.84

**Osborn, Jeff v. Monroe County**

**CAP-04-564**

**Circuit Court 16<sup>th</sup>**      **Judge: Garcia**      **Date Filed: 11/24/04**

1 of 2 certiorari petitions challenging development approval of Northstar project.

**Growth Management/Planning**

**RBS**

**Current Status:**      Court denied petition 12/14/05.

**Next Activity:**      None pending appeal.

**Fees billed to date:** \$14,039.50

**Costs:** \$261.49

**Osborn, Jeff v. Monroe County**

**3D06-52**

**Third DCA**      **Judges: TBA**      **Date Filed: 1/11/06**

Certiorari appeal of CA P 04-564 on Northstar Project. V & B handling.      **RBS**

**Growth Management/Planning**

**Current Status:**      Briefing Complete.

**Next Activity:**      Await ruling of the Court.

Billing received to date: see billings for CA P 04-564.

**Osborn, Jeff v. Monroe County**

**CAP-04-565**

**Circuit Court 16<sup>th</sup>**      **Judge: Garcia**      **Date Filed: 11/24/04**

2 of 2 certiorari petitions challenging development approval of Northstar project.

**Growth Management/Planning**

**RBS**

**Current Status:**      Oral argument held 12/15/05.

**Next Activity:**      Await decision of Court.

**Fees billed to date:** \$3,920.50

**Costs:** \$146.93

Assigned Assistant County Attorney

PJM = Pedro Mercado

JDS = Jerry Sanders

RBS = Bob Shillinger